



General Assembly

January Session, 2013

***Raised Bill No. 6687***

LCO No. 4825



Referred to Committee on JUDICIARY

Introduced by:  
(JUD)

***AN ACT CONCERNING CERTIFICATES OF MERIT.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 52-190a of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage and*  
3 *applicable to causes of action pending on or accruing on or after said date*):

4 (a) (1) No civil action or apportionment complaint shall be filed to  
5 recover damages resulting from personal injury or wrongful death  
6 occurring on or after October 1, 1987, whether in tort or in contract, in  
7 which it is alleged that such injury or death resulted from the  
8 negligence of a health care provider, unless the attorney or party filing  
9 the action or apportionment complaint has made a reasonable inquiry  
10 as permitted by the circumstances to determine that there are grounds  
11 for a good faith belief that there has been negligence in the care or  
12 treatment of the claimant. The complaint, initial pleading or  
13 apportionment complaint shall contain a certificate of the attorney or  
14 party filing the action or apportionment complaint that such  
15 reasonable inquiry gave rise to a good faith belief that grounds exist  
16 for an action against each named defendant or for an apportionment

17 complaint against each named apportionment defendant. To show the  
 18 existence of such good faith, the claimant or the claimant's attorney,  
 19 and any apportionment complainant or the apportionment  
 20 complainant's attorney, shall obtain a written and signed opinion of a  
 21 [similar] qualified health care provider, as defined in [section 52-184c,  
 22 which similar health care provider shall be selected pursuant to the  
 23 provisions of said section] subsection (d) of this section, that there  
 24 appears to be evidence of medical negligence and that includes a  
 25 detailed [basis for the formation of such opinion] statement that  
 26 identifies one or more breaches of the prevailing professional standard  
 27 of care.

28 (2) Such written opinion shall not be subject to discovery by any  
 29 party except for questioning the validity of the certificate. The claimant  
 30 or the claimant's attorney, and any apportionment complainant or  
 31 apportionment complainant's attorney, shall retain the original written  
 32 opinion and shall attach a copy of such written opinion, with the name  
 33 and signature of the [similar] qualified health care provider expunged,  
 34 to such certificate. The [similar] qualified health care provider who  
 35 provides such written opinion shall not, without a showing of malice,  
 36 be personally liable for any damages to the defendant health care  
 37 provider by reason of having provided such written opinion.

38 (3) In addition to such written opinion, the court may consider other  
 39 factors with regard to the existence of good faith.

40 (4) If the court determines, after the completion of discovery, that  
 41 such certificate was not made in good faith and that no justiciable issue  
 42 was presented against a health care provider that fully cooperated in  
 43 providing informal discovery, the court upon motion or upon its own  
 44 initiative shall impose upon the person who signed such certificate or a  
 45 represented party, or both, an appropriate sanction which may include  
 46 an order to pay to the other party or parties the amount of the  
 47 reasonable expenses incurred because of the filing of the pleading,  
 48 motion or other paper, including a reasonable attorney's fee. The court  
 49 may also submit the matter to the appropriate authority for

50 disciplinary review of the attorney if the claimant's attorney or the  
51 apportionment complainant's attorney submitted the certificate.

52 (b) Upon petition to the clerk of the court where the civil action will  
53 be filed to recover damages resulting from personal injury or wrongful  
54 death, an automatic ninety-day extension of the statute of limitations  
55 shall be granted to allow the reasonable inquiry required [by] under  
56 subsection (a) of this section. This period shall be in addition to other  
57 tolling periods.

58 (c) The failure to obtain and file the written opinion required [by]  
59 under subsection (a) of this section shall be grounds for the dismissal  
60 of the action, provided the claimant has failed to remedy such failure  
61 not later than sixty days after being ordered to do so by the court.

62 (d) For the purposes of this section, "qualified health care provider"  
63 means a similar health care provider, as defined in subsection (b) or (c)  
64 of section 52-184c, or any other health care provider who may testify as  
65 an expert pursuant to subsection (d) of section 52-184c.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage and applicable to causes of action pending on or accruing on or after said date</i>	52-190a

***JUD***      *Joint Favorable*